

1 like to read it?

2 A I'm familiar with it. If you ask me specifics
3 about it, I may want to read it.

4 Q Why don't you take a moment and read it.

5 (Witness reviews document.)

6 THE WITNESS: Okay.

7 MR. ARONOWITZ: Okay.

8 BY MR. ARONOWITZ;

9 Q Do you think that the terms and conditions as
10 outlined by the Commission reflect your network arrangement
11 with MMBI?

12 A Yes.

13 Q Okay. Do you think that your -- that the network
14 arrangement with MMBI is a bona fide arm's length
15 transaction between the primary station and the translator?

16 A Yes.

17 Q Do you -- when you sought authority from the
18 Commission to do this, the '91 letter, did you mention
19 anything with respect to a position as chief operator?

20 A No.

21 Q Okay. Does the Commission's response deal with
22 that in any way, shape or form?

23 A No.

24 But it is covered in the rules, though.

25 Q How so?

1 A In the translator rules, a primary station is
2 allowed to give the translator technical support. So one
3 would think that if a primary station can give the
4 translator technical support, the translator should be able
5 to give the primary station support as long as you're not
6 getting paid for it.

7 In other words, as I understand it, you cannot pay
8 the chief engineer from this radio station for maintaining
9 your translator. Likewise, if the translator is giving
10 technical support to the originating station, there can't be
11 reimbursement either. So if it can go one way without any
12 money changing hands to reimburse for maintenance, it should
13 be able to go the other way, and that's the logic.

14 Q Do the Commission's rules permit this or is it
15 just that the Commission's rules don't object to it?

16 A They are stated.

17 Q This is stated?

18 A Yes, sir.

19 JUDGE STEINBERG: What is "this"? You said "This
20 is stated."

21 MR. ARONOWITZ: I'm --

22 THE WITNESS: I'm sorry. This technical support
23 is clearly stated in Section 73 and 74 of the rules.

24 BY MR. ARONOWITZ;

25 Q But in your mind, in your mind, is the

1 difference -- the technical support allows the hiring of the
2 chief operator.

3 A I didn't say that.

4 Q In your mind, is the fact of the chief operator
5 being paid a critical difference?

6 A Yes.

7 Q Okay. So this is permitted if the chief operator
8 is taking no money?

9 A You're using the word "chief operator." And you
10 can use that, I guess, if you wish to. I'm talking about
11 technical support.

12 Q Well, you have identified yourself as the chief
13 operator.

14 A Oh, yeah, to give technical support.

15 Q Do you think that your '91 letter to the
16 Commission asking for permission adequately addresses this
17 technical support, as you put it?

18 A We just discussed that it wasn't mentioned in the
19 letter.

20 Q Okay. With respect to the '91 letter written by
21 Mr. Stewart --

22 A Yes.

23 Q -- did you -- later on did the FCC disagree with
24 you about this?

25 A Yes.

1 Q Did you appeal the FCC's decision?

2 A No.

3 Q You accepted it?

4 A I wasn't happy about it.

5 Q But you accepted it?

6 A Yes, I did.

7 Q I believe in your direct -- I now want to move
8 away from the '91 letter, and now move to the acquisition of
9 WXTM as a general subject matter.

10 And a decision was made to purchase WXTM, and you
11 were providing technical support --

12 A Advice.

13 Q Did you do anything?

14 A You're talking about --

15 Q In terms of constructing -- let me put a time
16 frame on it.

17 The decision was made to purchase WXTM.

18 A By MMBI, correct.

19 Q And the decision was made that you would provide,
20 that would be the chief operator and provide technical
21 support?

22 A Correct.

23 Q Okay. And then there was an unbuilt construction
24 permit?

25 A Correct.

1 Q It needed to be built?

2 A Correct.

3 Q And did you just advise on the building or did you
4 actually get in there and help build?

5 A I basically supervised the construction. Mr. Weis
6 and the people that worked for him had the ability to
7 construct radio stations.

8 Q Okay. And when you say you helped Mr. Weis
9 build --

10 A I said I supervised.

11 Q Supervised.

12 JUDGE STEINBERG: He didn't say that.

13 BY MR. ARONOWITZ;

14 Q Supervised, when you supervised. Okay, it helps.
15 I'm trying.

16 When you said you supervised --

17 A Yes.

18 Q -- the construction of WXTM, was your work
19 confined to the physical -- at that time WXTM, the station?
20 Did you also do --

21 JUDGE STEINBERG: Wait, he didn't answer that
22 question.

23 BY MR. ARONOWITZ;

24 Q Was your work confined to WXTM, just the station?

25 A Can you define "the station," please.

1 Q Okay. The station as opposed to -- the station
2 equipment as opposed to the network equipment.

3 Did you advise on the construction of the physical
4 station?

5 A Yes.

6 Q Did you install network equipment at the station?

7 A Yes.

8 Q Did you supervise the construction of that -- of
9 the installation of that, or did you actually get in there
10 with a screwdriver?

11 A Of what?

12 Q Of the network.

13 A Of the network, correct, and myself, it belongs to
14 the network.

15 Q Okay, terrific.

16 Did you personally inspect what was later to
17 become the WJUX main studio equipment?

18 A Yes.

19 Q And you verified that it was operational?

20 A Yes.

21 Q Was there anything that needed to be done at the
22 main studio to tweak equipment or bring any existing
23 equipment that might have been there into operational mode?
24 It was all working perfectly?

25 A What was there?

1 Q Right.

2 A To the best of my knowledge and recollection, it
3 was all working. I mean, that doesn't mean there weren't
4 dirty heads, there were bulbs out.

5 Q Okay.

6 A But to the best of my knowledge and recollection,
7 everything in that production studio worked.

8 Q And did you have to install network equipment at
9 the production studio?

10 A No. I installed some, and I don't remember all
11 because it's been a long, long time. But I installed some
12 equipment at the studio. i don't remember specifically what
13 it was, though.

14 Q And the existing equipment and whatever network
15 equipment was installed worked well together? I mean, there
16 wasn't any -- they interfaced and there weren't any big
17 technical problems?

18 A Oh, sure, there were. I mean, getting the network
19 equipment to work.

20 Q Getting the network equipment to work --

21 A There were problems, yes, sure.

22 Q Were there problems getting the network equipment
23 to interact with the WJUX main studio equipment?

24 A No.

25 Q That worked smoothly, is that --

1 A Yes.

2 Q Okay. And this activity, in your mind, was
3 providing the technical support that was appropriate for you
4 to give?

5 A Yes.

6 Q Okay. And as chief operator, were you aware of
7 any operational logs of any sort --

8 A This is after --

9 Q -- for WXTM after it went on the air?

10 A That they controlled?

11 Q Anybody? Any operational logs by anybody?

12 A First of all, in terms of MMBI, no. In terms of
13 network, yes, with one proviso. They were never referred to
14 as logs. They were referred to as schedules.

15 Q Schedules. Okay.

16 But they were records?

17 A Schedules.

18 Q What were these schedules?

19 A The only schedule that I can remember was there
20 was a sheet where an operator was supposed to sign on and
21 off, which they generally didn't do.

22 You have to realize something, and this is
23 important to understand, Your Honor, that the FCC did away
24 with the requirement to keep such logs and such schedules.
25 So they were done at free will.

1 The operators would sign on and off these
2 schedules. They would -- at one point for a brief period of
3 time log tower light inspections, which went away quickly.
4 The network wasn't responsible for doing that. And there
5 would be a position on this particular log -- schedule,
6 schedule, where it would ask you to indicate whether the
7 facility was operating within set parameters.

8 In the case of WXTM/WJUX, I believe the maximum
9 operating power is approximately 4500 watts, and the minimum
10 power was approximately 3900 watts, and they had to log
11 every six hours, for hours, I don't even remember exactly
12 what it is, operating within parameters, yes, and that's
13 basically it in a nutshell.

14 Q Okay. And for what you've just described, could
15 you put a time frame on that?

16 A It didn't go on very long. What happened is I
17 discontinued it because the operators were getting sloppy
18 with it. They weren't signing on. They weren't signing
19 off. And it just got to be more of an informality. They
20 weren't even doing it half of the time, so I just kind of
21 like threw the towel in on it, and gave up on it.

22 Q Did these schedules also reflect whether ads were
23 played or not played, specifically, I'll ask?

24 A You're talking about transmitter functions.

25 Q Okay, so this is strictly transmitter functions

1 that you're talking about?

2 A Correct.

3 Q Okay, okay. Great.

4 And did you as a chief operator, all right, you
5 were named as the chief operator, did you keep a chief
6 operator's log separate and apart from any of these other
7 logs?

8 A As I said in my deposition, no.

9 Q Okay.

10 JUDGE STEINBERG: Well, is that the same answer
11 today?

12 THE WITNESS: Yes.

13 MR. ARONOWITZ: Thank you.

14 BY MR. ARONOWITZ;

15 Q And excuse me, I don't recall, when did -- when
16 did this practice of keeping schedule cease, to your
17 knowledge?

18 A Mr. Aronowitz, I don't really recall.

19 Q Well, assuming they started when the station went
20 on the air, was it --

21 A No, they didn't start when the station -- they had
22 gone back to the days of Franklin Lakes. So this was, you
23 know.

24 Q Well, I wasn't asking about Franklin Lakes.

25 A Okay, you were asking when it started.

1 Q I was asking about WXTM.

2 A Okay. So assuming it started with WXTM, some time
3 the end of October.

4 Q Okay.

5 A I don't recall.

6 Q Okay.

7 A I would just be venturing a guess.

8 Q And none of these schedules exist? Do any of
9 these schedules exist?

10 A Not to my knowledge, no.

11 Q All right. And you haven't disclosed any, to your
12 knowledge?

13 A I don't remember what I disclosed and didn't
14 disclose. I apologize.

15 Q Okay.

16 A We disclosed a lot, and I don't remember.

17 Q The record will speak for itself.

18 A Okay.

19 Q I just wanted to know if you know.

20 A I don't recall.

21 Q Okay. Were there any other records kept, and i
22 will ask specifically, I believe we heard testimony that
23 there was some form of records that were kept in the event
24 an advertisement did not air as scheduled.

25 A Discrepancies.

1 Q Discrepancies, okay. Is that correct?

2 A Yes.

3 Q You've helped me. That's terrific.

4 And why would an ad not play, for some reason?

5 A For an example, on July 6th of 1995, that would
6 have probably taken up four or five pages of advertising
7 that didn't run on the network.

8 Q And by July 6, 1995, you are referring to?

9 A The cable cut by New York Telephone.

10 Q And we discussed that yesterday.

11 A We certainly did.

12 Q And on July 6, '95, during the cable cut -- how
13 long was he cable out?

14 A I can only approximate. Somewhere between six and
15 eight hours.

16 Q All right, six and eight hours.

17 A Approximately.

18 Q So presumably you missed about six or eight hours
19 of ads?

20 A That is correct.

21 Q And were those reflected on a discrepancy log?

22 A They should have been, sure.

23 Q Okay. But we don't know because -- do we know?
24 Is that log available, to your knowledge?

25 A Everything that you asked for that we had, we gave

1 you.

2 Q Okay. So if you didn't give it to us, it's
3 unavailable?

4 A Exactly.

5 Q Okay.

6 A If I didn't, I wish I had it.

7 Q And after the keeping of technical logs, I don't
8 know if you refer to them as technical or --

9 A Schedules.

10 Q -- station logs.

11 JUDGE STEINBERG: Schedules, he said.

12 MR. ARONOWITZ: Schedules. Station schedules.

13 Excuse me.

14 BY MR. ARONOWITZ;

15 Q After those no longer were kept, whenever that
16 happened, were -- at this point I'm talking about WXTM/WJUX
17 Monticello, and if I switch to -- I'm always talking about
18 Monticello unless I say otherwise.

19 After the schedules no longer were kept were
20 WJUX's operating parameters still monitored?

21 A Yes.

22 Q By Dumont personnel?

23 A Yes.

24 Q Or in Dumont? Okay.

25 A Yes. Yes.

1 Q And --

2 A May I explain the answer to that question?

3 Q Go ahead.

4 A In terms of being monitored, I don't know if they
5 were being checked, but you could see them in an LED in
6 front of you maybe 10 feet away. There would be numbers in
7 front of you. So monitored meaning they were available,
8 yes. Whether or not they were checking them, I honestly
9 don't know.

10 JUDGE STEINBERG: And is the LED on the TC-8?

11 THE WITNESS: Yes. Yes, sir.

12 MR. ARONOWITZ: Okay.

13 JUDGE STEINBERG: And it was set at position one?

14 THE WITNESS: Yes, sir.

15 JUDGE STEINBERG: Excuse me. Status light one?

16 THE WITNESS: Channel one.

17 JUDGE STEINBERG: Channel one, and channel one
18 would monitor the transmitter output?

19 THE WITNESS: Yes.

20 JUDGE STEINBERG: And it was -- to the best of
21 your knowledge, channel one was the default channel, not the
22 default channel. Channel one was the display --

23 THE WITNESS: Of the power output.

24 JUDGE STEINBERG: Of the power out of the
25 transmitter, and that was the display that the TC-8 was kept

1 on?

2 THE WITNESS: Yes, sir. Referring to Monticello,
3 yes.

4 BY MR. ARONOWITZ;

5 Q And if it were -- you said they were monitored,
6 the operating parameters were monitored --

7 A They were available.

8 Q -- or should have been.

9 A They should have been.

10 Q They should have been.

11 And if following this line, if somebody noticed
12 operation at variance with licensed parameters, what would
13 they do?

14 A They would call me.

15 Q They would call you.

16 And what would you do?

17 JUDGE STEINBERG: Did you ever get such a call?

18 THE WITNESS: During the winter of '95, from
19 January 23rd on, the de-icing system at WJUX/WXTM failed to
20 operate properly. It had worked properly for approximately
21 almost three months. And on January 23rd, something
22 happened to it, and there was ice in the area. Ice got on
23 the antenna, and this was a problem that had occurred not
24 only from January 23rd on, but happened sporadically when
25 you got rain and freezing temperatures. And ice got on the

1 antenna in Monticello, and the transmitter rolled back in
2 power.

3 JUDGE STEINBERG: On those occasions or on that
4 occasion what happened in terms of your conduct or
5 participation?

6 THE WITNESS: The staff would call me, or usually
7 I was in the building anyway, and generally I remember this
8 happening during the day, maybe because I was around, I
9 don't specifically recall, but they would come to me and
10 say, "Look what happened."

11 And by the way, light number four would come on.
12 So light number four would come on. That would usually
13 catch their attention. They would see light number four
14 come on, and then they would look over at the LED output and
15 go the transmitter is at reduced power, what do we do? And
16 I would probably say something like, "Well, not a heck a lot
17 you can do. Let's hope the sun comes out."

18 JUDGE STEINBERG: And light number four on that
19 TC-8 represented, as you said yesterday, a VSWR problem?

20 THE WITNESS: Yes, Your Honor.

21 JUDGE STEINBERG: Okay, and let's not go into
22 that.

23 MR. ARONOWITZ: Oh, far be it for me, Your Honor.

24 BY MR. ARONOWITZ;

25 Q I want to ask one or two context questions because

1 I'm going to -- I'm not going to attempt to explain --

2 JUDGE STEINBERG: Just ask. Don't explain. Just
3 ask.

4 MR. ARONOWITZ: Okay.

5 BY MR. ARONOWITZ;

6 Q Was the link first used, first obtained --

7 A May I ask you a question?

8 Q Yes.

9 A Which link are we referring to?

10 Q Okay, we are now referring to WMG-499.

11 A Okay.

12 Q What we have been referring to as the intercity
13 relay.

14 JUDGE STEINBERG: The microwave.

15 MR. ARONOWITZ: The microwave.

16 JUDGE STEINBERG: Call it the microwave.

17 THE WITNESS: Yes, sir.

18 MR. ARONOWITZ: Let's call it the microwave.

19 THE WITNESS: Yes, sir.

20 BY MR. ARONOWITZ;

21 Q Was the microwave first used -- first obtained to
22 get the Franklin Lakes signal to the Fort Lee translator?

23 A I don't understand the question.

24 Q Was the microwave obtained for use for the Fort
25 Lee translator initially?

1 A Yes.

2 Q And its use was?

3 A To insert 30 second messages, emergency messages
4 and telemetry; remote control.

5 Q And in did insert -- well, no, I withdraw that
6 question.

7 And at the time that the -- at the time that the
8 microwave was obtained, you were inserting 30 second
9 messages or emergency announcements, whatever, into the Fort
10 Lee translator.

11 A Are we talking about Franklin Lakes?

12 Q Well, that's going to -- that is the answer. Let
13 me ask the question.

14 At that time --

15 JUDGE STEINBERG: Well, since we all know the
16 answer, why bother with the question?

17 BY MR. ARONOWITZ;

18 Q Well, at that time what was the primary station?

19 JUDGE STEINBERG: At the time the microwave was
20 obtained?

21 MR. ARONOWITZ: Obtained.

22 BY MR. ARONOWITZ;

23 Q What was the primary station?

24 A Franklin Lakes.

25 Q Okay. And that subsequently changed?

1 A Correct.

2 Q Okay. That's all I'm doing in that area.

3 MR. C. NAFTALIN: I didn't say a word.

4 THE WITNESS: I'm waiting for you.

5 BY MR. ARONOWITZ;

6 Q And after the Fort Lee translator began
7 rebroadcasting the signal of WJUX Monticello, you came to
8 learn that the FCC did not agree with your use of the link.
9 I think we determined that earlier?

10 A Yes, we've discussed that on numerous occasions.

11 Q Okay. Now, I believe you've testified that, with
12 respect to the time that the Fort Lee translator was
13 rebroadcasting WJUX Monticello, the link was only used
14 occasionally -- well, was the link used for emergency
15 messages?

16 A Can you give me a specific time period?

17 Q From 1994 until you shut it off, which is what,
18 July '95?

19 A Okay.

20 Q Okay. During that time was the link used to
21 deliver -- well, let's take it -- was the link used to
22 deliver 30 second messages to Fort Lee?

23 A Not any that I recall.

24 Q Okay. Was it used to provide emergency messages?

25 A It may have been. I don't recall any, but there

1 may have been.

2 Q Okay. If you said in your statement that there
3 were a few of them, would you argue with that?

4 A Well, in my statement I was probably referring all
5 the way back to the days of Franklin Lakes also, if I could
6 say that.

7 Q So are you saying now that the --

8 A I know what you're referring to, and I know what I
9 referred to. And when I referred to that in my statement
10 about emergency messages, I believe I also, for whatever
11 reason, encompassed Franklin Lakes also. I may have done
12 that.

13 JUDGE STEINBERG: Let's go to page 11 of your
14 statement. Let's clear it up while we're here.

15 MR. ARONOWITZ: I was going to do that later. We
16 can do it now.

17 JUDGE STEINBERG: Yes, now would be an appropriate
18 time. We'll have it all together.

19 THE WITNESS: I'm sorry. Do you have a Bates
20 stamp?

21 JUDGE STEINBERG: Page 11 of --

22 MR. C. NAFTALIN: It's your statement.

23 JUDGE STEINBERG: Of Turro No. 1.

24 THE WITNESS: Okay. Yes, Your Honor.

25 JUDGE STEINBERG: Actually, it starts on page 10.

1 Do you see the paragraph beginning, "In addition"?

2 THE WITNESS: Yes, sir.

3 JUDGE STEINBERG: Just read that through to
4 yourself.

5 (Witness reviews document.)

6 THE WITNESS: Okay. I'm sorry.

7 JUDGE STEINBERG: Okay, does that refresh your
8 recollection as to what you've said previously? Actually,
9 this is what your statement is?

10 THE WITNESS: Yes.

11 JUDGE STEINBERG: Do you need to correct it or
12 expand on it?

13 THE WITNESS: I need to add on that when I did
14 this I was also referring to Franklin Lakes, which maybe I
15 shouldn't have done, but it just kind of became one big
16 mishmash.

17 JUDGE STEINBERG: So the "no more than five times"
18 refers to -- that number five would include when you used
19 the microwave in connection with Franklin Lakes?

20 THE WITNESS: Exactly.

21 JUDGE STEINBERG: Okay. Now, the question is, the
22 current question is limit yourself to WJUX, and can you
23 recall how many of those no more than five times you used
24 the microwave in connection with WJUX?

25 THE WITNESS: Like from October through?

1 JUDGE STEINBERG: From October when WJUX went on
2 the air through the time the microwave was no longer in use.

3 THE WITNESS: As I sit here, I can't recall. I
4 really don't think there were any, but there may have been.
5 I don't recall.

6 And I'm sorry I can't do a better job.

7 JUDGE STEINBERG: Well, you are doing the best job
8 you can. If you can't remember, you can't remember.

9 BY MR. ARONOWITZ;

10 Q But if you said previously -- well, okay.

11 You heard Sergeant Einreinhofer earlier --

12 A Yes.

13 Q -- say that he never asked you to interrupt
14 regular programming to put emergency announcements on, okay.

15 A Never? Okay.

16 Q I think that's what he said.

17 A Okay, sure. I remember him saying that.

18 JUDGE STEINBERG: Well, what the Sergeant's
19 testimony was, it was. And if he said "never," then it's
20 never. If he said something other than "never," by your
21 paraphrasing it and saying he said "never" is not going to
22 change his testimony.

23 You can ask the question and see where you go, but
24 if the premise is along, the answer is not worth very much.

25 //

1 BY MR. ARONOWITZ;

2 Q Are you aware of any time Sergeant Einreinhofer
3 asked you to interrupt regular programming to broadcast
4 emergency announcements between October of '94 and the time
5 you turned off the link?

6 A If we expand this to Franklin Lakes, it would be a
7 lot easier to answer.

8 JUDGE STEINBERG: Well, I don't want to expand it
9 to Franklin Lakes.

10 THE WITNESS: Well, okay.

11 THE WITNESS: All right, let me put it to you this
12 way, and I apologize, Your Honor.

13 JUDGE STEINBERG: Don't.

14 THE WITNESS: The times that Mr. Einreinhofer
15 contacted me he would never ever say, "Discontinue normal
16 programming." Or he would say, "Listen, there is an
17 emergency message, I need you to get it on. You know, if
18 Monticello goes off the air, I want you to keep it on using
19 alternate means."

20 But Sergeant Einreinhofer would never say
21 "Discontinue" -- no, he would -- he just wouldn't say that.
22 So I think that's maybe what he was referring to.

23 I'm sorry, Your Honor, if I --

24 JUDGE STEINBERG: Just -- just answer the
25 questions to the best of your ability.

1 I'll tell you, why don't we take a couple of
2 minute break.

3 MR. ARONOWITZ: Thank you, Your Honor.

4 THE WITNESS: Thank you, Your Honor.

5 JUDGE STEINBERG: Yes, off the record.

6 (Whereupon, a recess was taken.)

7 JUDGE STEINBERG: Let's go back on the record.

8 BY MR. ARONOWITZ;

9 Q Mr. Turro, do you have a copy of your statement in
10 front of you?

11 A Yes, sir.

12 Q Page 11, could you turn to page 11?

13 A Yes.

14 Q And there is a carryover paragraph, and the last
15 line of that paragraph says, begins with, "The use of a"?

16 A Yes.

17 Q Could you read that sentence?

18 A Yes.

19 Q Okay. Does that refresh your recollection as to
20 whether there were emergency broadcast using the link
21 between 10-94 and the time you shut it off?

22 JUDGE STEINBERG: 10-94 being October '94.

23 MR. ARONOWITZ: October '94.

24 THE WITNESS: Yes.

25 //

1 BY MR. ARONOWITZ;

2 Q And what is your refreshed recollection?

3 A I don't recall any off the top of my head.

4 Q There could have been?

5 A There could have been, but I don't recall any.

6 Q Okay.

7 MR. ARONOWITZ: I'm going to put in front of the
8 witness --

9 JUDGE STEINBERG: Do you have a copy of the
10 deposition in the courtroom here that Mr. Turro --

11 MR. C. NAFTALIN: I have one.

12 MR. ARONOWITZ: Mine is unmarked.

13 MR. C. NAFTALIN: Yes, mine's all marked up.

14 JUDGE STEINBERG: Okay.

15 MR. ARONOWITZ: Just a moment because --

16 JUDGE STEINBERG: Okay, have you got -- okay, but
17 you've got a copy. Do you have a copy you can leave in
18 front of him?

19 MR. HELMICK: Here, he can look at my copy.

20 JUDGE STEINBERG: Okay, because -- just put a copy
21 in front of my.

22 MR. ARONOWITZ: No, I have a clean copy. I was
23 going to put that in front of him.

24 JUDGE STEINBERG: Put it in front of him and leave
25 it there. That way you don't have to run up and down.